

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 3310 – HB 3621

April 2, 2012

**SUMMARY OF AMENDMENTS (015171, 015967, 015968):** Deletes all language after the enacting clause. Deletes Tenn Code Ann. § 49-6-1005 and Tenn. Code Ann. Title 49, Chapter 6, Part 13. Defines “abstinence,” “abstinence-based or abstinence-centered,” “abstinence-centered education,” “abstinence-centered curriculum,” “age-appropriate,” “evidence-based approach,” “family life education,” “gateway sexual activity,” “medically accurate,” “puberty,” “risk avoidance,” “sexual activity,” “sexual contact,” “sexual intercourse,” and “sexually transmitted disease.” Requires family life education to begin in the ninth grade except in local education agencies (LEAs), beginning in the 1991-1992 school year, that are in counties with a pregnancy rate of 19.5 per 1,000 females ages 15 to 17. LEAs shall devise, adopt, and implement a family life education program. Requires the State Board of Education to develop a family life curriculum for LEAs that do not adopt their own program. Requires the LEA to conduct at least one public meeting each September prior to adopting a family life curriculum.

Authorizes the LEA to use a qualified health care professional or social worker to help teach the family life curriculum, but prohibits the LEA from utilizing the services of any individual or group that endorses student non-abstinence or promotes gateway sexual activity. Sets out what should be included in a family life program. Requires the LEA to notify parents or legal guardians at least 30 days prior to commencement of instruction that their student will be present for instruction in sex education; that the LEA will be using a family life curriculum that meets the requirements of state law; and that the parent has the right to examine grade level materials and to confer with the appropriate school personnel regarding any or all portions of family life. Authorizes parents to opt their students out of all or a portion of the family life curriculum by sending a written request to the student’s instructor, counselor, or principal. Students who are excused from all or a portion of the family life curriculum shall not be penalized for grading purposes provided that the student performs alternative health lessons satisfactorily.

Authorizes parents and legal guardians to file a complaint with the director of schools upon their belief that the teacher, instructor, or representative of an organization has not complied with the requirements of the new Tenn. Code Ann. § 49-6-1306. Requires the director of schools to investigate the complaint and make a report to the local school board. Requires the local school board to file a report with the Commissioner of Education who, in turn, is required to file an annual report with the Chairs of the Education Committees of the General Assembly. Creates a cause of action by a parent or legal guardian against an instructor or organization that promotes gateway sexual activity or demonstrates sexual activity but excludes instruction by teachers employed by the LEA. Authorizes a civil fine up to \$500 if the parent or guardian is the prevailing party. Imposes a one-year statute of limitations to bring such an action. A civil cause of action is not applicable in cases where any teacher, instructor, or organization, that answers

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in good faith, any question or a series of questions germane to the course material asked of the instructor and initiated by a student or students enrolled in the course.

States that notwithstanding any law to the contrary, and regardless of the title or designated name of the particular class or course, any instruction in sex education or sexual activity shall comply with the provisions of the proposed bill. Indicates that nothing in the section shall be construed to prohibit the scientific study of the sexual reproductive system through coursework in biology, physiology, anatomy, health, or physical education.

#### **FISCAL IMPACT OF ORIGINAL BILL:**

NOT SIGNIFICANT

#### **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:**

##### **Unchanged from the original fiscal note.**

Assumptions applied to amendments:

- Family Life is currently required for high school graduation.
- Based on information provided by the Department of Education, all LEAs should be offering family life education curriculum. Any modification to current sex education curricula will result in a not significant increase in local expenditures.
- The Department of Education recommends the Michigan Model Comprehensive Health Education Curriculum and guidelines to LEAs that contact the Department's Office of Coordinated School Health. The Michigan Model is a K-12 curriculum that is closely aligned with the state's current Health Education Standards which includes Family Life.
- The state will not be required to develop a new research-based curriculum but will continue to recommend the Michigan Model to an LEA that does not develop its own curriculum. The Department of Education estimates that the cost to develop a new curriculum would be significant.
- Any increase in local expenditures to hold public meetings, make reports as necessary, and keep required consent forms will be not significant.
- Any civil suit brought by parents or guardians of students will not involve LEAs.
- Any increase in local expenditures to notify parents that their student will be taking sex education and to receive and process written requests to opt out will be not significant.
- Any increase in permissive local expenditures to bring in an outside organization or individual to help teach family life curriculum will be not significant.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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